



**AN AMENDED ORDINANCE
BY CITY UTILITIES COMMITTEE**

04-O-0470

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A FRANCHISE AGREEMENT WITH MARIETTA BOARD OF LIGHTS & WATER d/b/a MARIETTA FIBERNET, A GEORGIA MUNICIPAL CORPORATION, TO PROVIDE TELECOMMUNICATIONS SERVICES USING PUBLIC RIGHT-OF-WAY; SPECIFYING THE COMPENSATION DUE THE CITY OF ATLANTA BY THE FRANCHISE AGREEMENT AND WAIVING CERTAIN PROVISIONS OF THE ROW FOR THIS INSTANCE ONLY; AND FOR OTHER PURPOSES.

WHEREAS, MARIETTA BOARD OF LIGHTS & WATER d/b/a MARIETTA FIBERNET, desires to provide telecommunications services on, under over and through the public right-of-way of the City; and

WHEREAS, MARIETTA BOARD OF LIGHTS & WATER d/b/a MARIETTA FIBERNET, has negotiated a franchise agreement with the City, which provides such access and preserves the rights of the City.

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS:

SECTION 1: That the Mayor be and is hereby authorized to execute a franchise agreement with MARIETTA BOARD OF LIGHTS & WATER d/b/a MARIETTA FIBERNET, for use of the public right-of-way for telecommunications purposes.

SECITON 2: That such franchise agreement shall expire and terminate on April 1, 2006. -

SECTION 3: MARIETTA BOARD OF LIGHTS & WATER d/b/a MARIETTA FIBERNET, shall pay the City an annual franchise fee equal to three percent (3%) of the franchisee's annual Gross Revenue, provided that in any calendar year that Grantee's Gross Revenue does not exceed \$500,000.00, the Franchise Fee shall be \$15,000.00 per year; provided further, however, that in no event will the Franchise Fee exceed an annual inflation-based cap. During the first two years of this Agreement, this cap will be set at eleven million dollars (\$11,000,000.00) annually. For the following years of this Agreement, this eleven million dollar (\$11,000,000.00) cap will be increased annually at the anniversary date of the execution of this Agreement, by the rate of inflation, which will be measured by the percentage change in the Gross-Domestic-Price Index ("GDP"), which is the gross domestic product fixed weight price index calculated by the United States Department of Commerce. The Grantee's obligation to pay the Franchise Fee shall commence on the Effective Date and continue throughout the Term; fees shall be paid on a quarterly basis for the preceding quarter, and shall be due on April 15, July 15, October 15, and the 15th day of January of each year throughout the Term. In the quarter, the Franchise Fee shall be prorated relative to the number of days in the quarter that the Franchise is in effect. On or before each quarterly payment date, Grantee shall provide a certificate, signed and attested to by the appropriate corporate officers or authorized corporate representatives, which verifies Grantee's Gross Revenues for the prior quarter.



SECTION 4: That the City Attorney shall prepare a franchise agreement containing all of the foregoing terms, which shall be approved by the City Attorney as to form.

SECTION 5: That said franchise agreement shall not be binding on the City until executed by the Mayor sealed by the Municipal Clerk and delivered to MARIETTA BOARD OF LIGHTS & WATER d/b/a MARIETTA FIBERNET.

A true copy,

Rhonda Dauphin Johnson
Municipal Clerk, EMC

ADOPTED as amended by Council
APPROVED by the Mayor

MAY 17, 2004
MAY 25, 2004

RCS# 5724
5/17/04
3:46 PM

Atlanta City Council

Regular Session

04-O-0470 FRANCHISE AGRMNT MARIETTA BRD LIGHTS AND
 WATER TELECOMM SERVICES
 ADOPT AS AMEND

YEAS: 10
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 4
EXCUSED: 0
ABSENT 1

Y Smith	Y Winslow	Y Shook	Y Martin	Y Mitchell
NV Starnes	NV Archibong	NV Muller	B Maddox	Y Norwood
Y Young	Y Fauver	Y Moore	Y Mosley	NV Willis

04-O-0470

04-C-0470
(Do Not Write Above This Line)

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AN ORDINANCE AUTHORIZING THE MAYOR TO
EXECUTE A FRANCHISE AGREEMENT WITH
MARIETTA BOARD OF LIGHTS & WATER d/b/a
MARIETTA FIBERNET, A GEORGIA MUNICIPAL
CORPORATION, TO PROVIDE TELECOMMUNI-
CATION SERVICES USING PUBLIC RIGHT-
OF-WAY; SPECIFYING THE COMPENSATION DUE
THE CITY OF ATLANTA BY THE FRANCHISE
AGREEMENT AND WAIVING CERTAIN PROVISIONS
OF THE ROW FOR THIS INSTANCE ONLY; AND
FOR OTHER PURPOSES.

ADOPTED BY
MAY 17 2004
COUNCIL

As Amended

- ☒ **CONSENT REFER**
- ☐ **REGULAR REPORT REFER**
- ☐ **ADVERTISE & REFER**
- ☐ **1st ADOPT 2nd READ & REFER**
- ☐ **PERSONAL PAPER REFER**

Date Referred 4/19/2004
Referred To: City Utilities
Date Referred
Referred To:
Date Referred
Referred To:

First Reading
Committee City Utilities
Date May 17, 2004
Chair John Smith
Referred To City Utilities

Committee City Utilities
Date 4/27/2004
Chair John Smith
Action
Fav, Adv, Hold (see rev. side)
AS PASSED

Members
[Signature]
[Signature]
[Signature]

Refer To
City Utilities
City Utilities
City Utilities

Committee City Utilities
Date 4/27/2004
Chair John Smith
Action
Fav, Adv, Hold (see rev. side)
AS PASSED

Members
[Signature]
[Signature]
[Signature]

Refer To
City Utilities
City Utilities
City Utilities

Committee

Date

Chair

Action

Other

Members

Refer To

Committee

Date

Chair

Action

Other

Members

Refer To

FINAL COUNCIL ACTION
☒ 2nd ☐ 1st & 2nd ☐ 3rd
Readings
☐ Consent ☐ V Vote ☒ RC Vote

CERTIFIED

[Signature]
COUNCIL PRESIDENT PRO TEM

MAY 17 2004

MAYOR'S ACTION

[Signature]
MAYOR